IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 372 of 2000
in
SPECIAL CIVIL APPLICATIONNo 7234 of 1999
with
CIVIL APPLICATION No 794 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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MEHSANA JILLA SAHAKARI KHARID VECHAN SANGH LTD
Versus
TANUBHAI KANTILAL THAKKER

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Appearance:
1. LETTERS PATENT APPEAL No. 372 of 2000
MR GM JOSHI for Appellant No.
MR JAL UNWALA for MR PK JANI for Respondent No. 1

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CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 01/10/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. It is the case of the respondent-workman before the Labour Court that he was working as a Clerk with the appellant-Mahsana Jilla Kharid Vechan Sangh Ltd. (for short "Sangh") from 1.5.1983. By an oral order dated 16.8.1985 his services were terminated. Assistant Labour Commissioner, Mehsana by his order dated 5.1.1987 referred the matter to the Labour Court, which was registered as Reference (LCK) No.6 of 1987. The Labour Court by its judgment and award dated 18.1.1999 declared the removal of the workman bad as it was in clear breach of violation of provisions of the Industrial Disputes Act, and accordingly, directed the appellant to reinstate him in service and to grant 25% back wages from 29.8.1991 and to pay cost of Rs.250/=. This was challenged by the appellant-petitioner before this court by way of Special Civil Application 7234/99, which was dismissed by the learned Single Judge of this court (Coram : Miss. R.M.Doshit, J.) on 26.10.1999. Hence, this Letters Patent Appeal.

#. Initially, when this appeal was placed before this court on 14.8.2003 the matter was adjourned for taking necessary instructions in the matter as the parties were trying to negotiate. However, negotiations fail, therefore, this court is required to decide this appeal on merits.

#. At the outset, it may be stated that the learned counsel Mr.Unwala for Mr.P.K.Jani on instruction from the respondent-workman, who is present before this court, submitted that he would be satisfied with the order of reinstatement with continuity in service and all other benefits of service awarded by the Labour Court, provided he is reinstated in service at the earliest. If it is done, then he is prepared to let go 25% of the back wages.

#. In view of the above, learned counsel Mr.Joshi for the appellant-Sangh left it to the court for passing appropriate order in this appeal.

#. Having carefully gone through the impugned award passed by the Labour Court, we are of the considered opinion that the learned Single Judge of this court rightly dismissed the petition filed by the appellant-petitioner-Sangh as no interference was warranted. We are in complete agreement with the view taken by the learned Single Judge. However, as stated at

the Bar by Mr.Unwala for the respondent-workman that he is ready to let go 25% back wages awarded by the Labour Court, therefore, this appeal is partly allowed to the extent that the 25% of the back wages awarded by the Labour Court is quashed and set aside and the rest of the judgment and award passed by the Labour Court is maintained. The appellant, now is directed to reinstate the respondent-workman in service as early as possible and not later than 15.10.2003.

#. Civil Application for stay is disposed of as the main appeal is partly allowed.

(B.J.Shethna, J.)

(Ravi R. Tripathi, J.)

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